

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Ninth Session
April 19, 2017**

The Committee on Commerce and Labor was called to order by Chair Irene Bustamante Adams at 1:37 p.m. on Wednesday, April 19, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Irene Bustamante Adams, Chair
Assemblywoman Maggie Carlton, Vice Chair
Assemblyman Paul Anderson
Assemblyman Nelson Araujo
Assemblyman Chris Brooks
Assemblyman Skip Daly
Assemblyman Ira Hansen
Assemblywoman Sandra Jauregui
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblywoman Dina Neal
Assemblyman James Ohrenschall
Assemblywoman Jill Tolles

COMMITTEE MEMBERS ABSENT:

Assemblyman Jason Frierson (excused)

GUEST LEGISLATORS PRESENT:

Senator James A. Settelmeyer, Senate District No. 17



STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Wil Keane, Committee Counsel
Judith Bishop, Committee Manager
Earlene Miller, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Lorne Malkiewich, representing American Resort Development Association
Bruce Breslow, Director, Department of Business and Industry
Kathleen A. Conaboy, representing Nevada Orthopaedic Society
Mendy Elliott, representing Chiropractic Physicians Board of Nevada
Dan Musgrove, representing State Board of Oriental Medicine
Susan L. Fisher, representing State Board of Osteopathic Medicine
K. Neena Laxalt, representing State Board of Physical Therapy Examiners
Weldon Havens, President, Nevada State Medical Association
Marlene Lockard, representing Nevada Chiropractic Association
Steven A. Saxe, Member, Nevada State Society of Oral and Maxillofacial Surgeons
Edith Gonzalez Duarte, representing Board of Dental Examiners of Nevada

Chair Bustamante Adams:

[The roll was called.] We will open the hearing on S.B. 311.

Senate Bill 311: Makes permanent the repeal of certain provisions relating to sellers of travel. (BDR 52-90)

Lorne Malkiewich, representing American Resort Development Association:

We requested Senator James A. Settelmeyer, Senate District No. 17, to sponsor this bill. This bill makes permanent the temporary repeal of provisions concerning the sellers of travel. These provisions were initially repealed in 2009 with a sunset of 2011. That sunset has been extended to 2013, 2015, and 2017. Senate Bill 311 would extend it until 2019. However, once that sunset does take effect, theoretically, the provisions that have been dormant for all this time would come back into existence. Our client had believed that the provisions concerning sellers of travel had been repealed permanently and requested that that happen. We have been working with the Department of Business and Industry and they are comfortable with and support the bill. The reason we are repealing the provision and would like the repeal to be permanent with respect to timeshare companies is that we believe the regulation is a redundant and duplicative regulation of an industry that is already heavily regulated. There are other means to regulate these entities. It has been eight years without this in effect and the Department has been dealing with it.

Chair Bustamante Adams:

Director Breslow, will you please explain why, in 2009, we decided to repeal those sections?

Bruce Breslow, Director, Department of Business and Industry:

In 2009, there was a whole Division of Consumer Affairs for the state. When there was a big fiscal crunch, that was put on ice. At the request of the Legislature, we brought back the Consumer Affairs Unit within the Director's Office of the Department of Business and Industry rather than a big agency that was financially unsustainable at the time. Last session, the Legislative Counsel Bureau, the Office of the Attorney General, and the Department of Business and Industry went through all of the old law and removed everything and created a much smaller consumer affairs unit, but they missed a strand of legislation, which is this piece which is the licensing of sellers of travel. It is something the Department has never done, and when people call, we say we do not do that. It is a leftover piece of legislation from the past and not something the state has been doing.

Senator James A. Settelmeyer, Senate District No. 17:

This is repealing a section that was allowed to sunset when it was meant to be deleted.

Chair Bustamante Adams:

Are there any questions from the Committee?

Assemblywoman Jauregui:

What were we doing before 2001?

Lorne Malkiewich:

In 2007, the Division of Consumer Affairs had appropriations of about \$1.5 million per year. The agency was General Fund-supported so you could not really see what was happening. In 2009, we cut the Division back to about \$200,000. Now the Unit is funded at about \$660,000 per year out of settlement money.

Chair Bustamante Adams:

Are there any in support? [There was no one.] Are there any in opposition? [There was no one.] Are there any in neutral? Seeing no one, I will close the hearing on S.B. 311. I will open the hearing on Senate Bill 292.

Senate Bill 292: Exempts physicians who are licensed in another jurisdiction from provisions governing the practice of medicine for certain purposes relating to athletics. (BDR 54-319)

Kathleen A. Conaboy, representing Nevada Orthopaedic Society:

We have been asked by Senator Joseph P. Hardy, Senate District No. 12, to present Senate Bill 292 in his absence. Similar legislation has been crafted by our parent academy, The American Academy of Orthopedic Surgeons, and has already passed in 31 states and is pending in at least 8 other states. The reason for the bill is that sports medicine physicians are responsible for the organization, management, and provision of care for athletes at

numerous sporting events. Often, these professionals travel with their teams across state lines. Currently, out-of-state athletic team medical staff cannot treat players and others because they lack additional licensure outside their home state. While out of town, the sports physician must choose between treating their own injured athlete at great professional risk or handing over the care of an injured player to another medical professional who may not know that player's history.

Sections 1 and 3 of the bill pertain specifically and respectively to allopathic physicians under *Nevada Revised Statutes* (NRS) Chapter 630 and osteopathic physicians under NRS Chapter 633. The bill in section 1, subsection 1 has a requirement that any visiting team physician must be licensed and in good standing in their home state. Section 1, subsection 2 requires that the physician must have an agreement with that sports team to provide care for the team when they are traveling. Section 1, subsection 4 limits the visiting team physician: he or she is banned from practicing at any health care facility, including an acute care facility in the visited state; it limits him or her to administering sideline evaluations, triage, and diagnostic services. They must defer to an in-state licensed physician if the athlete or a staff member needs to be transported to a facility.

The Federation of State Medical Boards has a guide to model policy for both allopathic and osteopathic physicians. That model policy encourages states to adopt a policy like this to allow visiting sports team physicians to practice on their teams. The policy states in their model language, "A physician licensed in another state is exempted from the licensure requirements in X state if the physician is employed or formally designated as the team physician by an athletic visiting team to a state for a specific sporting event and the physician limits the practice of medicine in the visiting state to medical treatment of the members, coaches, and staff of the sports entity that employs the designated physician." That sample language is reflected in the bill presented to you today.

Chair Bustamante Adams:

I would like to hear the amendment.

Mendy Elliott, representing Chiropractic Physicians Board of Nevada:

As athletic teams come to Nevada, they are not only bringing physicians, but they are bringing chiropractic physicians, physical therapists, doctors of oriental medicine, and athletic trainers. This amendment ([Exhibit C](#)) would similarly allow certain other medical professionals to practice in this state for the same limited duration, which is ten days, for the same limited purpose as authorized for physicians and osteopathic physicians. These professionals come under NRS Chapters 634, 640, 634A, and 640A, which represents those four types of physicians that the teams often bring into the state. It is not only limited to professional teams, but it can also impact National Collegiate Athletic Association teams that are coming into the state.

Chair Bustamante Adams:

Are there any questions from the Committee?

Assemblywoman Jauregui:

Do they have to report to the state board every time they come to Nevada, and what happens if they overstay their ten days?

Kathleen Conaboy:

If they overstay beyond the ten days, they would have to report because they would have to request to stay.

Assemblywoman Jauregui:

How would discipline work? If something were to happen that would warrant an investigation, would it be the responsibility of the Nevada board or their home state board?

Mendy Elliott:

They are not licensed under the Chiropractic Physicians' Board of Nevada. If a complaint was received, it would have to go back to the state where their license is held. We would not have jurisdiction unless they extended their stay for ten days.

Assemblywoman Jauregui:

If the complaint is filed with Nevada, do you transmit the information to their home state?

Mendy Elliott:

If there is a complaint that comes in, we would transmit that complaint to the state of license.

Chair Bustamante Adams:

Is this the amendment ([Exhibit C](#))?

Mendy Elliott:

We have submitted, through Senator Hardy to the Legislative Counsel Bureau, conceptual amendments for each of the categories and it is not back, but we are fine with the conceptual amendment as this bill moves forward.

Assemblywoman Carlton:

How do we handle physicians that may travel with boxers now?

Kathleen Conaboy:

I reached out to the Nevada Athletic Commission last session, and I was told at that time that they have their own physicians who handle ringside medical issues. I am not sure that they would be interested in this bill, and I have not talked to them this session. I can find that out for you.

Assemblywoman Carlton:

I would be curious if they would now want to have their own physicians instead of the ringside physician. On the additional 20 days, it says ". . . for each competition or training session." We have teams coming to this state. If they are practicing and you consider each day a practice and you multiply that by 20, I do not see any upper limit. There are a lot of training sessions between events. I believe it is your intention that as soon as the event is over, they go home.

Kathleen Conaboy:

That is correct.

Assemblywoman Carlton:

As long as training sessions end or competitions continue, they could keep getting extensions. They could technically come in with a team and stay. When does the board say to that physician, You have been in the state long enough and you need to get licensed. Where is that cut-off point?

Kathleen Conaboy:

According to the language in the bill, it is not more than 20 additional days for each competition or training session, so you are correct, Assemblywoman Carlton. We will check on that.

Assemblywoman Carlton:

We would want to be sure there is some type of time limit.

Assemblyman Daly:

When the Raiders move to Las Vegas, they play teams in their division twice a year. Is this limited to the team physician, the team chiropractor, or physical therapist? It is not an individual player's personal doctor?

Kathleen Conaboy:

You are correct. They have to have been under contract with the team and not to the individual athlete.

Mendy Elliott:

The same goes for the other four entities that we are amending into this bill. They have to be employed by the corporate office of the team.

Chair Bustamante Adams:

Where does it refer to the team in the bill?

Kathleen Conaboy:

That is the intent of section 1, subsection 2, and section 3, subsection 2, where it says they were invited by the governing body of the national organization to provide services.

Chair Bustamante Adams:

Is that verbiage borrowed from some other model language?

Kathleen Conaboy:

The Federation of State Medical Boards says if the physician is employed or formally designated as the team physician by an athletic visiting team. That may be the stronger language that would satisfy the concerns.

Chair Bustamante Adams:

Please give me that verbiage so we can look into that. Are there any other questions? Seeing none, are there any in support of S.B. 292?

Dan Musgrove, representing State Board of Oriental Medicine:

Acupuncture has been around the National Football League since 1992 when the Kansas City Chiefs were the first team to put an acupuncturist on staff. We want to make sure that those teams coming to Nevada have all they need to protect their athletes.

Susan L. Fisher, representing State Board of Osteopathic Medicine:

We are in full support of this bill. We have reviewed the amendment and do not have any issue with that. Our concerns are covered under section 3 of the bill, and we feel this allows us and the public the protections they need.

K. Neena Laxalt, representing State Board of Physical Therapy Examiners:

We agree with the amendment also.

Weldon Havens, President, Nevada State Medical Association:

I am a licensed physician, professor of health law at Touro University Nevada, and a licensed attorney. May I address one question previously asked? The section providing there must be an oral agreement with the team is in section 1, subsection 1. It says "... a physician who... has entered into a written or oral agreement to provide services to members of a visiting athletic team or organization" That is in the bill in section 3, subsection 1, also.

I am here in support of S.B. 292. One important thing to remember is that this ability to practice medicine is only for the team members for which a physician is contracted. Nevada citizens would not fall under this and may not be treated by a visiting physician. This protects Nevada citizens and applies only to members of the team. It is for a 10-day period with a possible additional 20-day exemption by the Board. I am not sure how that will work since the Board only meets four times a year. I am sure they will work it out in regulation. If a team were here for four different competitions, then the 10-day period would apply to each of those competitions or training sessions. I would commend Dr. R. Jeff Grondel's exhibit that is posted in the Nevada Electronic Legislative Information System ([Exhibit D](#)) explaining the necessity and importance of this. Currently, I believe they may be practicing without a license, which is a category D felony, and is punishable by 1 to 4 years in prison with a \$5,000 fine. If there is injury to a player from the treatment,

that becomes a category C felony, which is punishable by 1 to 4 or 5 years' imprisonment and a \$5,000 to \$10,000 fine. The Board of Medical Examiners has the authority to issue a cease and desist order against these physicians and fine them \$5,000 for each incident. This bill would eliminate that for these visiting physicians so they are not subject to being prosecuted for a felony or to have action taken by the Board of Medical Examiners.

Chair Bustamante Adams:

Are there any questions from the Committee?

Assemblywoman Neal:

If this bill passes, and if the Board of Medical Examiners has cited a team physician, will this then be retroactively applied, especially if they were practicing medicine with the absence of the law?

Weldon Havens:

Theoretically, that would be possible according to the statute of limitations if this bill passes because it would now be legal to do so. In theory, they could apply it retroactively.

Assemblywoman Neal:

I was wondering if they could re-review the case if the issue simply was not that they caused harm, but that they practiced and they did not have the unrestricted license provision to cross state lines.

Weldon Havens:

If they have practiced within the state without a license, they are subject to a category D felony as well as the sanctions by the Board.

Chair Bustamante Adams:

Are there any other questions from the Committee? Are there any others in support?

Marlene Lockard, representing Nevada Chiropractic Association:

We are in support as amended.

Chair Bustamante Adams:

Is there any opposition? [There was none.] Are there any to testify in neutral? [There was no one.] I will close the hearing on S.B. 292 and open the hearing on Senate Bill 334.

**Senate Bill 334: Revises provisions related to unprofessional conduct by dentists.
(BDR 54-1147)**

Steven A. Saxe, Member, Nevada State Society of Oral and Maxillofacial Surgeons:

I am an oral and maxillofacial surgeon practicing in Nevada as a specialist in dentistry ([Exhibit E](#)). I appreciate the opportunity to present an intensifying issue in dentistry that has been occurring for many years. The problem can be addressed and corrected by the passage of Senate Bill 334. The proposed measure will provide a means to enforce standards for

professional conduct that currently exist in *Nevada Revised Statutes* (NRS) 631.348 and *Nevada Administrative Code* (NAC) 631.270, which were meant to protect the public from unscrupulous advertising in the dental industry. Unfortunately, these statutes have become antiquated and do not address the most popular form of advertising today—the Internet. It is important that this bill be enacted so advertising regulations protect Nevadans who generally use the Internet when they wish to find a dentist or a specialist in dentistry.

The basis of my concern centers around two violations. The first is the most concerning, and involves the multi-billion dollar Internet advertising industry. These search engine optimization companies disregard Nevada's currently enacted laws as they apply to other forms of media when promoting dental companies. There are no specific rules that apply to search engine optimization companies.

The second violation concerns unscrupulous corporate dental practices that use unprofessional tactics to be dominant for Internet search results. For example, when a consumer searches online for a dental specialist, such as an orthodontist or an oral surgeon, the search engine optimization companies provide links to general dentists and dentists who practice specialties not recognized by the American Dental Association. Unscrupulous dentists and corporate dental practices can pay these search engine optimization companies to show their practices as "sponsored links" whenever specific terms or keywords are searched. The more frequently that business's name comes up, the higher the cost to the dentist to advertise, and it is all based on proprietary "trade secret algorithms."

When a dental specialist wishes to compete with other specialists with their same qualifications, he or she should only need to pay the search engine optimization company based on dentists with similar specialty credentials in Nevada. Nonspecialist dentists in Nevada who pay search engine optimization companies for premium advertising may use specialist terms to identify their dental website, making false claims by using hidden keywords in their advertisements. This effectively blocks the specialists with bona fide credentials from being displayed at the top of the list when a Nevadan is searching for a licensed specialist.

The irresponsible Internet companies are not interested in the accuracy of what dentists are specialists. They allow all dental entities, regardless of licensure, to advertise using these keywords, leaving the consumer confused. For example, the printed phone book is tangible. The categories are clear regarding who is a dental specialist. On the Internet, nothing is tangible. There are many tactics search engine optimization companies use to conceal strategies to be number one on a search.

With regard to my second concern, when a potential patient is searching for a specialist, other dentists without appropriate credentials can pop up more than the actual specialist does. This is wrong. When using other forms of advertising, this would be contrary to the current statute because any dentist who advertises as a specialist must include their specialty license number or post in the ad that "services are performed by a general dentist." This is routinely not done on the Internet.

This legislation would give the Nevada Board of Dental Examiners the tools necessary to police these violations by enforcing and updating the advertising standards to include the Internet and will protect Nevadans from predatory tendencies of search engine optimization companies and other unscrupulous advertisers. I urge you to vote for passage of S.B. 334, which updates NRS 631.348 and NAC 631.270, advertising standards for the Internet.

Chair Bustamante Adams:

Are there any questions from the Committee?

Assemblywoman Jauregui:

I do not know why we have to change it. Is that already unprofessional conduct under current statute? Current statute prohibits publishing or circulating any fraudulent, false, or misleading statement, so that would cover anywhere.

Steven Saxe:

The print advertising specifically can be looked at. In an Internet advertisement, if one places a keyword such as "oral and maxillofacial surgeon," or maybe they list every oral and maxillofacial surgeon in the state of Nevada, you cannot see that. That is why this particular modification in section 1, subsection 3, which says, "Using or permitting to be used any Uniform Resource Locator, Internet domain name, Internet keyword or any other type of computer code or computer software to advertise to or inform any person by way of the Internet of the services, Internet website or dental practice, office or clinic of a dentist in a manner that is false or misleading" is needed. There is no way for anyone to police that. That is what is missing from the current language. You cannot see that. It is the responsibility of the dentist to ask questions of their search engine organization companies that are promoting them to make sure they are in compliance with ethics and guidelines of, for example, the American Dental Association. The ads that are seen and policed by the Nevada State Board of Dental Examiners speak for themselves, whereas ones that are on the Internet can be hidden with the use of these tactics that these companies use to get you to number one.

Assemblywoman Jauregui:

If there is a violation, who is going to be found liable?

Steven Saxe:

The dentist will be liable. The dentist has a license with the state, and it is up to the dentist to ask questions with the advertisers with whom they do business.

Assemblywoman Carlton:

You are trying to regulate the search engine. Do I understand that correctly?

Steven Saxe:

I am trying to regulate the dentist's responsibility to ask questions when they advertise with Google or Yelp. I could spend money to have my company be number one on the list. How they get me there should be a question I ask of them. It is my responsibility to know

how they get me to the number one position. I need to make sure that they are responsible and they adhere to the ethics and guidelines of the American Dental Association as a dentist. I have no way to know, if I spend \$300 a month and somebody else spends \$10,000 a month, how they are getting to number one over the person who is spending \$300 a month. It is up to me to ask these questions.

Assemblywoman Carlton:

One of my concerns is that if you get into false and misleading statements and someone else puts something on Yelp, you are not going after the patient. We are trying to regulate how far up the chain people pop up in a search engine. If I am in practice and I am going to spend that amount of money to make sure my name comes up on the top, I would want to make sure that happens. It is just a function of business. I do not know where the false and misleading comes in.

Steven Saxe:

I will give you an example: as a board-certified oral maxillofacial surgeon, we treat trauma to the face, head and neck cancer, temporomandibular joint surgery. If there is somebody professing on their website through a hidden word, such as "oral surgeon," to draw the consumer to their website, that is not correct. In Nevada, if you put something in print, you have to write, "Services being rendered as a general dentist" or you have to write your specialty license number in all of your print advertising. You do not see those on the Internet. It is hidden. It is not something that is tangible. It is up to the dentist to make sure that they are using tactics to get you to number one that are within the ethics and guidelines of our national organization which we mention in our law.

Assemblywoman Carlton:

The American Dental Association is for the profession. It is the regulatory board that deals with this. Have you spoken to the Board of Dental Examiners of Nevada? Have they tried to address this in regulation? This seems to fall under their guidelines of false and misleading.

Steven Saxe:

I spoke with the Board approximately two years ago regarding this. I spoke with the Office of the Attorney General about this. Lori Johnson, an attorney who helped me draft this, has a specialty in advertising law. All of these entities are aware of this problem. It is not only a problem in dentistry, but in many different licensed professional entities in Nevada.

Assemblyman Marchant:

Are you targeting the companies that are doing the search engine for the companies, or are you targeting companies like Bing and Google?

Steven Saxe:

I am not targeting any company. That is not the intent of the bill. The intent of the bill is to have the dentists who employ these services to be responsible enough to ask the appropriate questions to make sure they are in compliance and advertising ethically.

Assemblyman Marchant:

Do you think some of the companies offering search engine advertising may be guiding them in a way that you do not want?

Steven Saxe:

It is not that I do not want; it is that they are unethical and illegal. If you look at the phone book, for example, and you look up dentists, there is a whole list of dentists. Then they go into specialists. Each specialist has listed next to their name a specialty license number as is compliant with the state of Nevada. If you put "oral surgeon" into a search engine, most of the people who pop up will be oral surgeons, but there are plenty of other dentists who are not oral surgeons who pop up.

People who are specialists and have extra training for years after dental school should not have to compete with people who are misleading the public by using the Internet as their advertising means because there is no way to reference their specialty license number on the Internet. There is no way to see that they are practicing as general dentists. It is basically a word that is typed in. If I put in "children's dentistry," you would think the person who comes up would be a children's dentist who has been specifically trained with an extra two to three years of training just dealing with children, not somebody who may not have the training and just wants the child to come to their office. If you look in the phone book, the children's dentists are listed specifically with their specialty license number by their name.

That is the law. You do not have that law on the Internet. That is the point, and the dentist is responsible to assure the public when they put their names out there that they are recognized as a specialist or a general dentist doing some specialty work. That is the current law.

Assemblyman Marchant:

You are putting the onus on the dentist to monitor the tags that are in all of their advertisements and websites?

Steven Saxe:

Yes.

Assemblyman Daly:

Will the Board of Dental Examiners of Nevada have to look at the contract that they have with the search engine to see if they told them the right things and take discipline against the dentist?

Steven Saxe:

I do not think the Dental Board is going to start policing every Internet website. I think it is a complaint-driven system. If somebody professed to be an oral surgeon and did an oral surgery procedure on an individual but they were not an oral surgeon and the person said, "I found you on the Internet as an oral surgeon," then I think the Dental Board would probably investigate to the extent you described.

Assemblyman Daly:

When you type in this information on the Internet, a lot of times it will give you a name with a phone number and direct you to a website. Is all of the information on the person's website? They have complete control over what is on the website. I do not know that the Board or even a person trying to do things the way you are saying they should is going to be successful because the Internet people are in business to get as many people to the advertisements that they want. These things go to a phone number and a person can call. Then, if the person does oral surgery and they were not licensed, they should get into trouble, but I am not sure that is happening.

Steven Saxe:

If a person who is looking for a specific entity and they follow up either by their looking at the web page, which will not have the information I am talking about, or by calling the facility and talking to someone other than the dentist, they may be misled.

Assemblywoman Neal:

I understand your example that it is misleading if someone's name pops up if they are not an oral surgeon. If you are talking about unprofessional conduct being associated with computer input, these can be situations where you have been directed to add information to a website. Is the person who is directed to create the information also responsible for the misleading communication other than the dentist?

Steven Saxe:

I did this with Yelp two years ago. The Yelp people interview you and ask what words you would like to be keywords. As you go through those things, as a dentist, it is your responsibility to let them know that you are not supposed to say, "The best dentist" or "painless dentistry." There are certain rules, ethics, and guidelines that do not show up. The consumer who types "painless dentistry" in the search engine may have all these dentists who use keywords saying painless dentistry, and it is not on their website or on their phone message. It is just there to entice someone to their web page. There is nothing tangible, and that goes with other things such as claiming to be a specialist.

There are many aspects of advertising that could still be utilized and done in an ethical manner such as before there was an Internet. The phone book was monitored for people who were falsely putting themselves out as specialists or calling themselves "painless" or "the best." Those types of things are not permissible. Currently, you cannot monitor that on the Internet, but it is still the responsibility of the dentist to ensure that those providers of the Internet services are following the rules and guidelines regardless of what organization they belong to. The state of Nevada has ethics and guidelines that they adhere to.

Assemblywoman Tolles:

If I find a name on an Internet search for an oral surgeon and when I call and they say they are pediatric dentists, do they not have to ethically disclose that to me so I can hang up and go back to my search?

Steven Saxe:

I feel that is wrong to put the consumer through that extra step. The consumer should trust the advertisements, and there is no way to put trust in something you cannot see or something you are being duped into believing by being led by the tactics that are being utilized. There are things called cloaking the keywords and different little tricks that they have to entice somebody. They can watch the person's behavior on social media so they can draw people. That is fine as long as they do it ethically. This is so the dentist maintains his responsibility to the public as an ethical provider of services. This expands to modern technology the current rules on the book.

Assemblywoman Tolles:

As a consumer, I have been frustrated as I have looked for specialists and done various searches. It would be nice to have it laid out in plain black and white how many specialists are in my area who are certified to practice. I am sympathetic with what you are trying to do; I am just wrestling with the method to get there. I am curious if the Board has ever considered having a completely neutral website that is a reliable place to look up providers by category in your area.

Steven Saxe:

That exists. It is a license verification. There is a drop-down box where you enter the doctor's name and it gives their specialty license. It also talks about their education and if they have had any violations or complaints.

Chair Bustamante Adams:

Assemblywoman Carlton has a question for the Board of Dental Examiners of Nevada.

Assemblywoman Carlton:

It is my understanding that the Board is neutral on the bill. If I am looking for a specialist to deal with temporomandibular joint disorders and I do a Google search, I have four or five names pop up. I find out their advertisement was misrepresented to me. If I call the Board to complain about a dentist misrepresenting himself, would you accept that complaint?

Edith Gonzalez Duarte, representing Board of Dental Examiners of Nevada:

The Board would take the complaint and review it on a case-by-case basis using disciplinary action already in place.

Assemblywoman Carlton:

So there is an avenue to address this if a constituent feels they are being misled.

Edith Gonzalez Duarte:

That is correct.

Assemblyman Marchant:

I understand what you are trying to accomplish with this, but a lot of the dentists hire people to do this for them, and they may not understand what is going on. I am a little leery about making them liable for this. I am not sure if there is another way to accomplish what you are trying to get to. Have you talked to a lot of dentists and gotten their input on this?

Steven Saxe:

Yes, I have.

Assemblywoman Jauregui:

You are talking about the dentists using keywords in searches, not their using those words in their actual website or what comes up in the summary when someone does a search. I do not think there is anything wrong with their being able to use those keywords for a search because ultimately they are advertising and trying to drive traffic to their website. If someone uses oral surgery to do a search and the first thing that pops up is general dentistry, as long as they do not advertise in the actual summary that shows up on Google, Bing, or their website, they are trying to attract patients. Other industries do it all the time. Keywords are the mechanisms used to drive traffic to your website. Ultimately, it is the consumer's responsibility to visit the website and see what services are offered.

Steven Saxe:

Is that a question? Are you asking me about the keywords themselves?

Assemblywoman Jauregui:

You are specifically trying to target the keywords, right? The keywords are just to drive traffic to their site, and there is nothing wrong with driving traffic to your site if you are not going to represent misleading information on your actual website. How you get people to your site should not be a problem.

Steven Saxe:

I do not disagree with advertising. Advertising is fine. The problem is the way that you are driven to the website needs to be out there for everyone to see. If someone is looking to take their two-year-old with nursing bottle caries to a board-certified pediatric dentist—somebody who is well-trained in dealing with these particular incidents—they should not be driven to a general dentist who just graduated from dental school because their advertising budget allows them to draw that particular person inappropriately to what they think is a pediatric dentist. The bottom line is that, as dentists, we need to look out for the consumers. People do not necessarily read the website. They see the website and they call the number. There is nothing wrong with advertising, there is nothing wrong with drawing consumers in, but there is something wrong with doing it unethically by putting yourself out there as something you are not.

Chair Bustamante Adams:

Is there any support for S.B. 334? [There was none.]

[Lori D. Johnson, Associate Professor, William S. Boyd School of Law, University of Nevada, Las Vegas submitted written testimony in support of S.B. 334 ([Exhibit F](#)).]

Is there any opposition? [There was none.] Are there any in neutral? [There were no one.]
I will close the hearing on S.B. 334.

Is there any public comment? [There was none.] The meeting is adjourned [at 2:38 p.m.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

APPROVED BY:

Assemblywoman Irene Bustamante Adams, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to [Senate Bill 292](#), written by Senator Joseph P. Hardy, Senate District No. 12, and presented by Mendy Elliott, representing Chiropractic Physicians Board of Nevada.

[Exhibit D](#) is a letter dated March 18, 2017, in support of [Senate Bill 292](#), authored by R. Jeff Grondel, Surgeon, The Sports Medicine Center at The Orthopaedic Institute of Henderson, and presented by Weldon Havens, President, Nevada State Medical Association.

[Exhibit E](#) is written testimony by Steven A. Saxe, Member, Nevada State Society of Oral and Maxillofacial Surgeons, in support of [Senate Bill 334](#).

[Exhibit F](#) is written testimony dated April 17, 2017 in support of [Senate Bill 334](#), authored by Lori D. Johnson, Associate Professor, William S. Boyd School of Law, University of Nevada, Las Vegas.